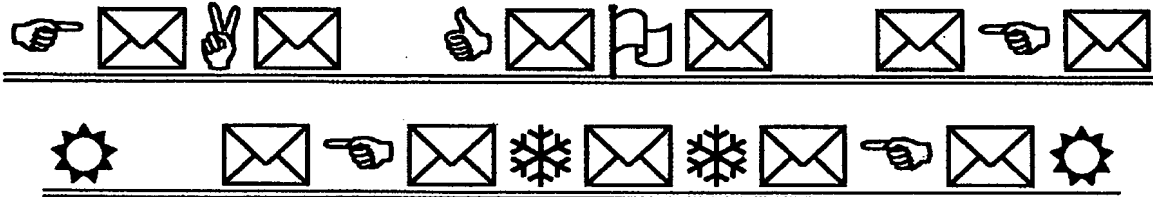


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Sender : **PENINSULA IP GROUP**

Date : **September 4, 2007**

To : **United State Patent and Trademark Office**

Attention : **MS Issue Fee**

Fax Telephone No : **(571) 273-8300**

SERIAL NO. : **09/996,342**

Enclosed : **Transmittal of Status Inquiry (2 pp); Exhibit A; Petition to Withdraw (3); 312 Response (9); 312 Receipt Acknowledgement (1); & Interview Summary Record 3-39-06 (3).**

FILE NO. : **WASC1821**

Number of pages
including this cover page : **20**

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Thank you for your anticipated cooperation.

Douglas Chaikin - RE: US Serial No.: 09/996,342 Our File: WASC1821

Page 1

From: "Spar, Bob" <Bob.Spar@USPTO.GOV>
To: "Douglas Chaikin" <dac@peninsulaip.com>
Date: 8/22/2006 2:18:09 PM
Subject: RE: US Serial No.: 09/996,342 Our File: WASC1821

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I have received the 2 other e-mails and have initiated an investigation into the situation.
You should hear the results shortly.

Bob Spar
Director, Office of Patent Legal Administration
Madison West 7D89
Office of Deputy Commissioner for Patent Examination Policy
(571) 272-7700 bob.spar@uspto.gov

-----Original Message-----

From: Douglas Chaikin [mailto:dac@peninsulaip.com]
Sent: Tuesday, August 22, 2006 2:24 PM
To: Spar, Bob
Subject: US Serial No.: 09/996,342 Our File: WASC1821

Dear Bob,

Thanks so much for speaking with me today. I would hope that we can get this straightened out in short order. I would also ask that the Appeal be expedited given that through no fault of the applicant it has not been in the cue this entire time.

I have scanned the relevant document and I'm sending them separately.

Thanks again,

Doug

This communication may contain information that is legally privileged, confidential or exempt from disclosure. If you are not the intended recipient, please note that any dissemination, distribution, or copying of this communication is strictly prohibited. Anyone who receives this message in error should notify the sender immediately by telephone or by return e-mail and delete it from his or her computer.

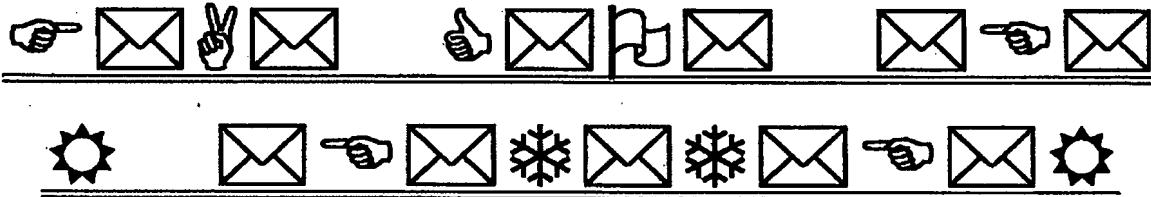
Douglas A. Chaikin, Esq.
Peninsula IP Group
26150 Bucks Run
Corral de Tierra, CA 93908

Tel.: (831) 484-2641
Cell: (831) 809-2000
Fax: (831) 886-2488
San Jose Tel: (408) 636 6306

Ex. A

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Sender : **PENINSULA IP GROUP**

Date : **August 10, 2006**

To : **United State Patent and Trademark Office**

Attention : **MS Issue Fee**

Fax Telephone No : **(703) 872-9306**

SERIAL NO. : **09/996,342**

Enclosed : **Transmittal of Petition to Withdraw (3); 312 Response (9); 312 Receipt Acknowledgement (1); & Interview Summary Record 3-39-06 (3).**

Number of pages
including this cover page : **17**

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Thank you for your anticipated cooperation.

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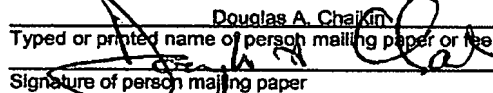
SEP 05 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: THOMAS EUGENE WACHURA SERIAL NUMBER: 09/996,342 FILED: November 21 2001 FOR: APPARATUS AND METHOD FOR SAMPLING EYE DIAGRAM WITH WINDOW COMPARATORS	PATENT ART UNIT NO.: 2863 EXAMINER: TUNG S. LAU Attorney Docket No.: WASC1821
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Corral de Tierra, California
August 9, 2006

I hereby certify that this Response D and the documents referred to as enclosed therein is being FAXED to the Office at 703 872-9306 on August 9, 2006 to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Douglas A. Chaikin
Typed or printed name of person mailing paper or fee

Signature of person mailing paper

Petition to Withdraw Holding of Abandonment

Mail Stop: Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the NOTICE OF ABANDONMENT mailed August 3, 2006, please enter the enclosed Petition under 37 CFR § 1.181 as follows:

PETITION TO WITHDRAW ABANDONMENT
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

August 9, 2006

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SEP 05 2007

*** * * R * E * M * A * R * K * S * * ***

Applicants state that the Notice of Abandonment is in error. On January 20, 2006, Applicants herein filed their Appeal in the above referenced matter. At no time did the Applicants herein withdraw their Appeal. A copy of the 312 Amendment and the Examiner's Interview Summary are attached hereto which clearly show the same and clearly show that the Office received the Appeal Brief no later than January 23, 2006.

Upon receipt of the Notice of Allowance, the undersigned immediately contacted the Examiner in the case and his SPE. The undersigned explained the Appeal had not been withdrawn and was not going to be withdrawn unless all claims were allowed. The Examiner elected not to allow all claims and as a result, the Appeal continues.

During the initial discussion with the Examiner's SPE, the SPE requested that Applicants file a 312 amendment which clearly reflected which claims were continuing on Appeal. Despite the undersigned's feeling that this was unnecessary because the Appeal Brief more than adequately took care of that aspect of the case, the undersigned nevertheless filed that attached 312 Amendment.

Subsequent to the undersigned's Interview with the Examiner's SPE, John Barlow, the Examiner telephoned the undersigned to apologize for the misunderstanding that led to the erroneous Notice of Allowance. The Examiner further assured the undersigned that the Notice of Allowance would be withdrawn. No such withdrawal was ever received by the undersigned.

Conclusion

Thus, through no fault of the Applicants or the undersigned, a Notice of Abandonment was generated in this matter. The Notice was improper and should

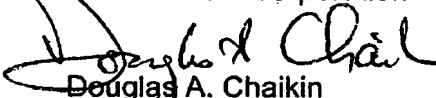
PETITION TO WITHDRAW ABANDONMENT
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

August 9, 2006

immediately be withdrawn and the Appeal should be expedited. The same is respectfully requested.

Respectfully submitted,

PENINSULA IP GROUP
A Professional Law Corporation

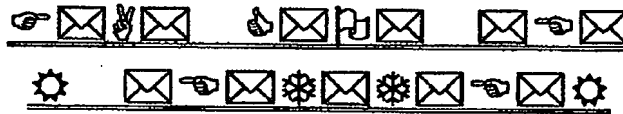

Douglas A. Chaikin
26150 Bucks Run
Corral de Tierra, California 93908
Reg. No. 29,140
(831) 809-2000

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10 (including cover page)

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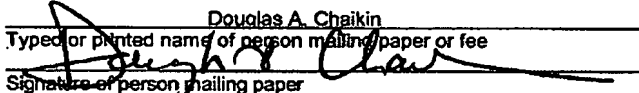
Thank you for your anticipated cooperation.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: THOMAS EUGENE WACHURA SERIAL NUMBER: 09/996,342 FILED: November 21 2001 FOR: APPARATUS AND METHOD FOR SAMPLING EYE DIAGRAM WITH WINDOW COMPARATORS	PATENT ART UNIT NO.: 2863 EXAMINER: TUNG S. LAU Attorney Docket No.: WASC1821
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Corral de Tierra, California
March 27, 2006

I hereby certify that this Response D and the documents referred to as enclosed therein is being FAXED to the Office at 703 872-9308 on March 27, 2006 to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Douglas A. Chaikin
Typed or printed name of person mailing paper or fee

Signature of person mailing paper

**RESPONSE Under 312 After Final and After Interview on March
27, 2006**

Mail Stop: Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the NOTICE OF ALLOWANCE AND FEES DUE OF March 20,
2006, please enter the enclosed 312 Response follows:

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

IN THE CLAIMS:

Please amend the Claims to read as shown below:

1. (Previously Presented) Apparatus for measuring characteristics of a bit stream of binary pulses comprising

control means for defining a window comparator, and

logic means for accumulating time and voltage counts of the bit stream pulses falling within voltage thresholds and points inside the window comparator during durations of the binary pulse bit stream and drawing eye diagrams therefrom defining the bit stream characteristics.

2. (Original) The apparatus for measuring characteristics of a bit stream of binary pulses set forth in Claim 1 wherein the control means comprises:

programmable means for establishing an array of columns and rows defining the points for accumulating counts of pulse voltage levels at time offsets during the duration times and for creating a voltage threshold window that moves between a minimum and maximum voltage with changes of rows of the array.

3. (Original) The apparatus for measuring characteristics of a bit stream of binary pulses set forth in Claim 2 wherein the logic means comprises:

logic circuitry for detecting voltage levels of the binary pulses occurring at various time offsets of the bit stream when the pulse voltage levels are within the voltage threshold window at each row and column point of the array.

4. (Original) The apparatus for measuring characteristics of a bait stream of binary pulses set forth in Claim 3 wherein the logic means comprises:

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

first counter means for accumulating counts of the detected binary pulse voltage levels at the time offsets during each duration part of the binary pulse bit stream in a column and row point of the array.

5. (Original) The apparatus for measuring characteristics of a bit stream of binary pulses set forth in Claim 4 wherein the logic means comprises:

second counter means for defining duration times of the bit stream of binary pulses to accumulate the counts of the detected binary pulse voltage levels falling within the voltage threshold window at each point of the array.

6. (Original) The apparatus for measuring characteristics of a bit stream of binary pulses set forth in Claim 5 further comprising:

apparatus for displaying the array column and row points of accumulated time and voltage counts as an eye diagram defining characteristics of the bit stream of binary pulses.

7. (Original) Apparatus for measuring characteristics of a bit stream of binary pulses comprising:

control means for defining a window comparator of an array of columns and rows defining points for accumulating voltage counts of the binary pulse bit stream at time offsets during defined durations of the binary pulse bit stream, and

apparatus for creating a voltage threshold window that moves between minimum and a maximum voltage levels with each row of the array and for accumulating counts of voltage levels of the binary pulses occurring at the time offsets of the bit stream during a duration time when the pulse voltage levels are within the voltage threshold window at each row and column point of the array and displaying the array column and row points of the accumulated time and voltage counts as an eye diagram defining characteristics of the bit stream of binary pulses.

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

8. (Original) Apparatus for measuring characteristics of a bit stream of binary pulses comprising:

first control means for defining a window comparator of an array of columns and rows defining points for accumulating event counts at time offsets during defined duration times of the binary pulse bit stream,

second control means for creating a voltage threshold window that moves between a minimum and maximum voltage threshold with each row of the array,

logic means for detecting voltage levels of the binary pulses occurring at time offsets of the bit stream when the pulse voltage levels are within the voltage threshold at each row and column point of the array,

first counter means for accumulating counts of the detected binary pulse voltage levels at time offsets during each defined duration time of the binary pulse bit stream in a column and row point of the array,

second counter means for determining duration of periods of the binary bit stream in which to accumulate the detected binary pulse voltage levels at each point of the array, and

monitor apparatus for displaying the array column and row points of the accumulated event counts as an eye diagram defining characteristics of the bit stream of binary pulses.

9. (Previously Presented) A method for determining characteristics of a bit stream of binary pulses comprising the steps of

defining a window comparator, and

accumulating various voltage counts of the bit stream pulses at time offsets during defined duration times of the binary pulse bit stream within voltage thresholds at

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

points inside the window comparator and drawing an eye diagram therefrom defining the bit stream pulse characteristics.

10. (Original) The method for determining characteristics of the bit stream of binary pulses set forth in Claim 9 wherein the window comparator defining step comprises the step of:

establishing an array of columns and rows defining the points for accumulating the event counts at time offsets during the defined duration times.

11. (Original) The method for determining characteristics of the bit stream of binary pulses set forth in Claim 10 wherein the window comparator defining step comprises the step of:

creating a voltage threshold window that moves with respect to a minimum and maximum voltage threshold wherein the voltage threshold window changes with respect to the rows of the array.

12. (Original) The method for determining characteristics of the bit stream of binary pulses set forth in Claim 11 wherein the event count accumulating step comprises the step of:

detecting voltage levels of the binary pulses occurring at the time offsets of the bit stream when the pulse voltage levels are within the voltage threshold window at each row and column point of the array.

13. (Original) The method for determining characteristics of the bit stream of binary pulses set forth in Claim 12 wherein the event count accumulating step comprises the step of:

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

accumulating counts of the detected binary pulse voltage levels at the time offsets during each duration part of the binary pulse bit stream in a column and row point of the array.

14. (Original) The method for determining characteristics of the bit stream of binary pulses set forth in Claim 13 wherein the event count accumulating step comprises the step of:

displaying the array column and row points of accumulated event counts as an eye diagram defining characteristics of the bit stream of binary pulses.

15. (Previously Presented) A method for determining characteristics of a bit stream of binary pulses comprising the steps of:

defining a window comparator of an array of columns and rows defining points for accumulating event counts of the binary pulse bit stream at time offsets during defined durations of the binary pulse bit stream;

creating a voltage threshold window that moves between a minimum voltage and a maximum voltage at each row of the array; and

accumulating counts of voltage levels of the binary pulses occurring at time offsets of the bit stream during a duration time when the pulse voltage levels are within the voltage threshold window at each row and column point of the array and displaying the array column and row points of the accumulated event counts as an eye diagram defining characteristics of the bit stream of binary pulses.

16. (Previously Presented) A method for determining characteristics of a bit stream of binary pulses comprising the steps of:

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

defining a window comparator of an array of columns and rows defining points for accumulating event counts at time offsets during defined duration times of the binary pulse bit stream;

creating a voltage threshold window that moves between defined voltage levels at each row of the array;

detecting voltage levels of the binary pulses occurring at the time of the bit stream when the pulse voltage levels are within the voltage threshold window at each row and column point of the array;

accumulating counts of the detected binary pulse voltage levels at the time offsets in a column and row point of the array; and

displaying the array column and row points of the accumulated time and voltage counts as an eye diagram defining characteristics of the bit stream of binary pulses. binary pulses set forth in Claim 5 further comprising:

apparatus for displaying the array column and row points of accumulated time and voltage counts as an eye diagram defining characteristics of the bit stream of binary pulses.

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

March 27, 2006

*** * * R * E * M * A * R * K * S * * ***

Applicants herewith submit this 312 Response in a bona fide attempt to advance the prosecution of this case and to answer each and every ground of rejection as set forth by the Examiner. Applicants respectfully request this Amendment be entered and further request that the appeal proceed as if the Notice of Allowance was never filed. Applicant requests that all filing and due dates for the Appeal remain as before.

Apparently, the Examiner did not understand that the Applicant's intention was to continue with its appeal. On March 13th, the undersigned received a telephone call from Examiner Lau concerning this case. The Examiner stated that he found allowable subject matter if the limitations of Claims 1 and 2 were combined. Applicant considered the matter and decided that it would like to continue with the Appeal without changing any of the claims. However, Applicant would file a continuation case, which would combine the limitations of Claims 1 & 2 and sought a speedy allowance of that case from the Examiner. The undersigned verbally communicated this to Examiner Lau.

Applicant then prepared a Continuation Application and a Preliminary Amendment. Subsequently, the undersigned spoke with Examiner Lau again and the Examiner requested that the Preliminary Amendment be first sent to him. Applicant agreed and sent the Preliminary Amendment directly to Examiner Lau's private fax address. The Examiner after reading the Preliminary Amendment suggested further changes. Applicant agreed to these further changes and subsequently filed its continuation with the Preliminary Amendment attached. Applicant sent a courtesy copy of the Preliminary Amendment again to Examiner's Lau's private fax number.

Shortly thereafter the undersigned received a telephone communication from Examiner Lau who wanted further changes. The undersigned was awaiting the formal communication before responding. Upon receipt of the formal communication, the undersigned realized that the Examiner had misunderstood and immediately telephoned Examiner Lau's SPE, John Barlow. This communication follows that telephone call.

312 RESPONSE
SER. NO. 09/996,342
ATTORNEY DOCKET NO.: WASC1821

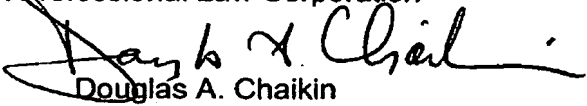
March 27, 2006

It will be noted that in Applicant's Preliminary Amendment, p. 11, second sentence of the Remarks section that the Applicant specifically stated that it did not want the Appeal disturbed and was filing the continuation to obtain a speedy allowance on the continuation. Additionally, there is no serial number or filing date on the continuation and furthermore, it is labeled a Preliminary Amendment, not a Response after Final as would be required if this were a modification of the parent case.

Therefore it is quite clear Applicant had no intention of disturbing the appeal on the parent case and wanted only to assist the Examiner and obtain an earlier allowance of the continuation case. The appeal should immediately be put back and all applicable dates should remain as if the Notice of Allowance never happened and the Notice of Allowance should be withdrawn from this case and applied to the continuation case.

Respectfully submitted,

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A Professional Law Corporation


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